

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Chapter 7
) Case No. 10-60520
Eric John Horvath,) Judge Russ Kendig
Laurie Lynn Horvath)
) **MOTION TO AVOID
Debtor.) JUDGMENT LIEN**

Now comes Debtor, Eric and Lauri Horvath, by and through counsel Nicole L. Rohr-Metzger, pursuant to the provisions of Rule 4003(d) of the Federal Rules of Bankruptcy Procedure and hereby moves the Court to avoid the judgments liens held by First Ohio Community Federal Credit Union against Debtors' residential real property. On February 17, 2010 the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code. The Debtor properly scheduled First Ohio Community (aka First Ohio Credit) on the original petition as a creditor. In accordance with 11 U.S.C. §§ 522(f), 506(d) and authoritative case law, Debtor moves to avoid the liens as they impair thier homestead exemption deem the balance owing the lien holders as general unsecured claims and therefore dischargeable in this bankruptcy case, and for an order releasing the lien of record.

Property Description:

The subject property is located at 1455 Mt Pleasant North Canton OH 44720. The 1,674 square foot Single Family dwelling is positioned on a .48 acre lot. The permanent parcel number for the property is 2000712.

Ownership Interests:

Debtor Eric and Laurie Horvath are the fee owners of the property pursuant to a General Warranty Deed with rights of survivorship recorded April 8, 2004, Instrument # 200404080023840.

Statement of Value:

The property is listed on Schedule A as having a value of \$120,000.00. The Current tax value of the property is \$137,700 and at the time of the filing in 2010 the tax value was \$142,500.00.

Statement of Lien Interests:

First Priority Lien: The first mortgage, recorded on April 11, 20115, was held by Wilmington Finance, Assigned to US Bank and being serviced by Litton Loan at the time of filing, whose principal claim is for \$122,000 according to the last statement at the time of filing. Instrument # 200504110022195 and assignment recorded 200602060006846.

Second Priority Lien: First Ohio Community Federal Credit Union has a judgment lien on the Debtors real property from a Stark County Court case 2009CVF07400. The underlying judgment was obtained against Eric Horvath and his daughter Kate Horvath in the Canton Municipal Court on November 9, 2009 in the amount of \$3816.83 plus interest and costs. The certificate of Judgment was filed with the Stark County Clerk of Courts on November 16, 2009 as Case No. 2009JG07490 and renewed on September 16, 2014 as 2014JG07598. It was also renewed on October 1, 2014 as 2014JG07916 and again on August 22, 2019 as 2019JG05113.

In accordance with the above, the lien that is held by First Ohio Community Federal Credit Union is a wholly unsecured junior lien that is avoidable pursuant to 11 USC § 522(f). The Debtor had at the time of filing a homestead exemption in such real property in the total amount of \$43,250.00 pursuant to the provisions of O.R.C. § 2329.66(A)(1) and 11 U.S.C. § 522(b)(2) of the Bankruptcy Code, and no party has objected to the allowance of such exemption. The property is valued at \$120,000.00 according to the schedules with mortgages in excess of \$122,000, leaving no unprotected equity. There is no unprotected equity to which the judgment lien can attach and because the lien impairs Debtors' entitlement to the \$43,250.00 homestead exemption, Debtor is entitled to avoid the judgment lien under 11 U.S.C. § 522(f).

Wherefore, Debtor requests the Court avoid the Judgment liens of First Ohio Community Federal Credit Union as a wholly unsecured judgment lien which impairs Debtors' homestead exemption and determine that the claim is a general unsecured claim; order the lien released within sixty days of discharge in this case; and provide such further relief as is appropriate and just.

Submitted by:

/s/Nicole L. Rohr-Metzger
Nicole L. Rohr-Metzger (#0078316)
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Counsel for Debtors

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)	
Debtors.)	

NOTICE OF MOTION TO AVOID LIENS

Debtor has filed papers with the court to avoid the judgment liens held by First Ohio Community Federal Credit Union .

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have any attorney, you may wish to consult one.)

If you do not want the court to avoid the liens, or if you want the court to consider your views on the motion, then on or before **September 23, 2020**, you or your attorney must:

File with the court a written response, explaining your position, and request a hearing, at:

**U.S. Bankruptcy Court,
Ralph Regula U.S. Courthouse,
401 McKinley Ave SW, Canton, OH 44702**

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date state above.

You must also mail a copy to:

Nicole L. Rohr-Metzger
Thrush & Rohr, L.L.C.
4410 22nd Street NW

Canton OH 44708

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: September 2, 2020

Signature: /s/Nicole L. Rohr-Metzger
Name: Nicole L. Rohr-Metzger
4410 22nd Street NW
Canton, OH 44708

CERTIFICATE OF SERVICE

I, Nicole L. Rohr-Metzger, hereby certify that a true and accurate copy of the foregoing was sent by regular US Mail, postage prepaid, this September 2, 2020 to the following individuals:

Stephen Ginella Jr 3600 Cleveland Avenue NW Canton OH 44709

I, Nicole L. Rohr-Metzger, hereby certify that a true and accurate copy of the foregoing was sent by CERTIFIED US Mail, postage prepaid, this September 2, 2020 to the following individuals:

First Ohio Community Federal Credit Union C/O President Kim Lapinski 8200
Cleveland Avenue NW North Canton OH 44720

I, Nicole L. Rohr-Metzger, hereby certify that a true and accurate copy of the foregoing was electronically transmitted on or about September 2, 2020 to the following who are listed on the Court's Electronic Mail Notice List:

- Nicole L. Rohr-Metzger nicole@thrushandrohr.com,
office@thrushandrohr.com; thrushrohr@gmail.com
- United States Trustee (Registered address)@usdoj.gov

/s/Nicole L. Rohr-Metzger
Nicole L. Rohr-Metzger